

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA, §
Plaintiff, §
§
V. § 4:03CR00061-001
§
ROCKY DEVURLE SHAW, §
Defendant. §

NUNC PRO TUNC APPLICATION FOR WRIT OF EXECUTION

The United States of America, plaintiff, makes a nunc pro tunc application for a writ of execution pursuant to the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3203(c)(1) because one of the vehicles listed in the original Motion for Writ of Execution was identified with the wrong model and VIN. *See* Doc. No. 65.

On October 3, 2014, four vehicles were seized by the U.S. Marshal's Service from the Defendant's residence. Upon seizure, it was discovered that one of the vehicles listed in the original motion as 2005 BMWT X5, VIN: 5UXFA13575LY21587, should have been identified as a 2005 BMW 5CI, VIN: WBABD33455PL06250. The United States requests an Order for Writ of Execution be issued nunc pro tunc by the Court. The United States submits to the Court the following:

1. The defendant, Rocky Devurle Shaw, whose address is [REDACTED], Dallas, Texas [REDACTED], is indebted to the United States in the amount of \$353,107.28 as of July 29, 2014. Defendant is indebted to plaintiff as a result of a criminal judgment entered on June 30, 2004 in the Eastern District of Texas which imposed payment of restitution in the amount of \$351,102.21 and a fine of \$20,000.00. *See* Doc No. 61.
2. There is or may be property in which the debtor has possession, custody, or control,

and in which the debtor has a substantial nonexempt interest which may be levied upon for payment of the above judgment, described as follows:

- a. Motor Vehicle – 2001 Mercedes ML 320, VIN: 4JGAB54EX1A282592
- b. Motor Vehicle – 2005 BMW 5CI, VIN: WBABD33455PL06250¹
- c. Motor Vehicle – 2004 BMW 325I, VIN: WBAEV33414KR34683

WHEREFORE, the United States respectfully requests that the Court issue a Writ of Execution in accordance with the Federal Debt Collection Procedures Act of 1990. It is additionally requested that the United States Marshal's Service be ordered to personally serve the judgment-defendant and all other interest parties (i.e. spouse, son, etc.). In the event that the Marshal is unable to personally serve the defendant and other interested parties, it is requested that the Marshal be allowed to serve the judgment-defendant and other interested parties by substitute service by posting the Writ of Execution, Notice of Levy and other related documents to the door of defendant's residence. Many attempts were previously made by the United States Marshal's Service to personally serve a Subpoena on the defendant but were unsuccessful.

Respectfully submitted,

JOHN M. BALES
UNITED STATES ATTORNEY

/s/Robert Austin Wells /s/
Robert Austin Wells
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¹ This is the proper vehicle model and VIN which was seized by the U.S. Marshal Service on October 3, 2014.

CERTIFICATE OF SERVICE

I hereby certify that on 7th day of October, 2014, I electronically filed this document with the Clerk of the United States District Court for the Eastern District of Texas using the CM/ECF system, which sent notification of the filing to counsel for all parties and that a true and correct copy of the foregoing motion was mailed via the U.S. Postal Service, Certified Mail, Return Receipt Requested, to the Defendant and other interested parties as follows:

Rockie Devurle Shaw
[REDACTED]

Dallas, TX [REDACTED]

Phyllis Shaw
[REDACTED]

Dallas, TX [REDACTED]

Reed Dayne Shaw
[REDACTED]

Dallas, TX [REDACTED]

Nena Harrison
8043 Genesis Dr.
Dallas, TX 75232

/s/ Robert Austin Wells /s/
Robert Austin Wells
United States Attorney's Office